Exhibit F

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	MDL No. 1456
	Master File No. 01-CV-12257-PBS
THIS DOCUMENT RELATES TO:	
	Subcategory No. 06-CV-11337-PBS
United States of America, ex rel. Ven-A-Care of the Florida Keys, Inc., v. Abbott Laboratories, Inc., CIVIL ACTION NO. 06-11337-PBS)	VOLUME I

Videotaped Deposition of JAMES W. HUGHES, Ph.D., at 77 West Wacker Drive, 35th Floor, Chicago, Illinois, commencing at the hour of 9:13 a.m. on Tuesday, May 5, 2009.

these two methodologies are not the same in a statistical sense, or I'm sorry, do not give the same result in a statistical sense.

And if it's not statistically significantly different, then economists would generally conclude that either method, the methods give, statistically speaking, the same result. And so there's no reason to choose one over the other.

But just to say well, this is .2 percent higher done with claims data than done through extrapolation, is that a lot or is that a little, I don't have a, I cannot articulate a standard for saying that that's a lot or that's a little.

Q. So you don't have an opinion as to whether the differential between the two methods that he employed are material to this case?

A. Well, again, he seemed to think they were material because after he did the calculation, he says to me through his rebuttal report, see, if I did it differently, this would

have come out, the difference calculation would have come out higher.

And then he doesn't say but, by a statistically insignificant amount or by an amount that really doesn't matter. He says look, it's different.

So I will follow him, and it seemed it was material enough for him to point it out.

Q. But you haven't done any such analysis; correct?

MR. BERLIN: Objection, form.

THE WITNESS: I don't have access to the data, no. I haven't been asked to conduct any such analysis.

BY MR. LAVINE:

Q. Also with the Medicaid program, you said that your other major criticism of Professor Duggan was the manner in which his but-for world was created.

Are there any differences between your criticisms of the but-for world in the Medicaid arena as compared to the Medicare arena?

A. Well, generally no. But specifically yes.

Again, there are numerous bits, not numerous bits, numerous pieces of evidence from testimony, from reports, from government publications, speaking to the consequences for access and speaking to the consequences for the viability of providers if ingredient costs are reduced. And, again, as I've said earlier, Dr. Duggan does nothing to take this into, does nothing to take this into account.

So he is, again, ignoring specifically lots of evidence in this matter that suggests that the way he has characterized the but-for world is not an accurate representation of the world that would have existed absent the alleged wrongful behavior of Abbott in this matter.

Q. Because, again, you are of the opinion that if he lowered the ingredient cost the way he did in his method, there needed to have been some way of accounting for increased dispensing fees that would have been necessary as a result of

that?

A. Well, I mean that's one part of it.

But the other part is of course that to reduce, according to the testimony that I read, to reduce ingredient costs by that amount while assuming everything else, particularly dispensing fees, stays constant, remain constant, that that would threaten patient access to the Medicaid system. And that would violate the mandate in the Medicaid law that requires that Medicaid recipients have the same access to medical care as nonMedicaid recipients, a mandate that is co-equal in my understanding with the mandate to keep the costs of the program low.

Q. I'm not sure I understand how this criticism is different than the similar criticism you've leveled in connection with the Medicare program.

You're saying that dispensing fees and the ingredient cost need to be considered together. If you don't consider it together, it's an unrealistic but-for world. And one of

the reasons for that is because of the access issues that may result from not doing that.

Is there anything else in that?

A. Well, but I mean the other thing is that of course this is a state-by-state program and that these plans are approved on a state-by-state basis.

So that how states are going to or how the evidence shows that states balance access versus cost issues, how states approach cost containment. I mean when state budgets get bad, they often just go after Medicaid. So it may have very little to do with the issues that may be active in this matter.

So there's the added part here is that because these things are determined on a state-by-state basis, that there's going to be some variance in these consequences when ingredient costs are attempted to be lower.

I mean if you look at the evidence, some states, over the period of this lawsuit, some states were able to reduce their ingredient

cost by a little bit. Some of them raised dispensing fees, some of them didn't.

But it remains the case that nobody had the kind of wholesale Draconian cut in ingredient cost that Dr. Duggan proposes in his report.

Q. So is this criticism at least in part that Professor Duggan doesn't account for the individual differences between the state Medicaid programs?

A. Well, in some of his, in some of his data analysis he certainly, you know, he certainly does.

I mean he takes into account if a state has a MAC for a drug for example. So I mean there are differences that he certainly does attempt to take into account.

But on the bigger picture, on the consequential issues that what happens when you lower ingredient costs by so much, how are states going to react, how are providers in states going to react, the evidence seems to suggest that some states worry more about access than others.

So how much you would actually be able to lower ingredient costs and still keep the viable network of providers would vary from state to state.

But, again, my criticism is he absolutely ignores all of that because he assumes that the provider networks stay the same, dispensing fees stay the same, everything stays the same, but in some states he can cut the reimbursements by ninety percent and have nothing happen. And that just seems unrealistic to me.

Q. So are you also of the opinion that the manner in which the extrapolation was performed had some mathematical flaw?

A. Well, it was, again, unnecessary in many cases.

It requires the making of assumptions that Dr. Duggan does not state for us what those assumptions are.

I did not in my review of his report, and I did not review the data, but in my review of his report I did not detect that his

subtraction was in any way flawed, no.

Q. Is that a review you understood to be handled by Huron Consulting?

A. Not specifically, but I suppose that it was. I mean nobody ever said to me yes, that's what's Huron is doing. But I assume that's what Mr. Young did.

Q. That never came up in any conversation with counsel as to shouldn't there be somebody looking at the actual data in this case?

A. Oh, there's all sorts of experts Abbott has. I couldn't tell you what any of them are doing specifically.

It wasn't anything that was discussed with me. And I never asked. I mean outside of Mr. Young, I actually couldn't name any of the other Abbott experts.

Q. And you didn't make any recommendations as to type of data analysis that might be done in connection with this case?

A. Only to the extent that things appeared in the exhibits to my report.